

### **REMARKS**

Claims 1-8 are pending in the application. Favorable reconsideration of the application, as amended, is respectfully requested.

#### ***I. OATH/DECLARATION***

The Examiner has indicated the declaration is defective and is requiring a supplemental declaration to correct the alleged defects. It is respectfully submitted that the declaration is recognized as acceptable in view of the notice set forth in the Official Gazette of December 13, 2008 (1327 OG 112). Such notice reads, in pertinent part:

For pending applications, the Office is hereby sua sponte waiving the express language requirement of 37 CFR 1.63(b)(3), where the oath or declaration was filed prior to June 1, 2008. The express language of 37 CFR 1.63(b)(3) is waived only to the extent necessary such that an oath or declaration containing the "material to examination" or "in accordance with § 1.56(a)" language, or both, will be accepted as acknowledging the applicant's duty to disclose information "material to patentability" as defined in 37 CFR 1.56.

Therefore, being filed prior to June 1, 2008, the declaration need not recite the express language of 37 CFR 1.63(b)(3) and is therefore believed to be in proper form.

#### ***II. CLAIM AMENDMENTS***

Claim 1 has been amended for clarity. Claim 8 is new.

#### ***III. REJECTION OF CLAIMS UNDER 35 USC §102***

Claims 1-7 stand rejected under 35 U.S.C. 102(b) as being anticipated by Ono et al. (EP 0 763 353). Withdrawal of the rejection is respectfully requested for at least the following reason.

The presently claimed invention provides a worn article having cover-sheet that prevents an absorbent portion detachably attached to the fitting portion from inadvertently coming off the fitting portion. The coversheet covers at least part of the absorbent portion detachably attached to the fitting portion.

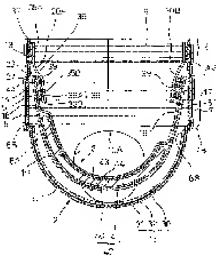
Moreover, the presently claimed invention allows for inspection of the diaper to determine if it is soiled while being worn. As will be appreciated, such inspection can be effected by removing the cover sheet and detaching the absorbent portion from the fitting portion such that the absorbent portion can be manipulated to determine whether the diaper has been soiled.

Accordingly, amended claim 1 sets forth a worn article comprising, *inter alia*, a fitting portion adapted to fit around a torso of a wearer, and an absorbent portion adapted for covering a crotch of the wearer and absorbing body fluid from the wearer, wherein:

the absorbent portion includes a first end portion and a second end portion that are connected to the fitting portion; the first end portion of the absorbent portion is detachable from the fitting portion; and a cover sheet covers at least a portion of an exterior surface of the first end portion which is opposite a surface facing the skin surface of the wearer during wearing, wherein, when the article is worn, the cover sheet is at least partially removable to expose exterior surface of the first end portion of the absorbent to an exterior of the worn article for detaching the absorbent from the fitting portion.

Ono et al., with reference to Fig. 2 reproduced below, appears to disclose a disposable absorbent undergarment comprising pants 1 and an absorbent pad 3 that is releasably securable to suspending flaps 20A and 20B which are in turn secured to pants 1 on an inner side of a waist opening.

**FIG. 2**



**FIG. 2 of ONO**

The Examiner asserts that suspending flap 20A corresponds to the cover sheet of claim 1, and the the suspending flap 20a is at least partially removable to expose the absorbent pad 3 to an exterior of the worn article. The undersigned continues to disagree with the Examiner because removal of the suspending flap 20a would result in detachment of the absorber pad 3 from the fitting portion of the garment. This is evident because the purpose of the suspending flap 20a is in fact to attach the absorbent pad 3 to the fitting portion. Thus, it cannot be said that the suspending flap 20a is at least partially removable to expose the absorbent for detaching from the fitting portion.

Nevertheless, claim 1 has been amended to recite a cover sheet covering at least a portion of an exterior surface of the first end portion [of the absorbent portion] which is opposite a surface facing the skin surface of a wearer. Clearly, Ono does not disclose a cover sheet as set forth in claim 1 for covering such exterior surface that is at least partially removable to expose the absorbent to the exterior of the garment during wearing. At best, removal of the suspending flap 20a of Ono would expose the absorber to the interior of the garment (e.g., the side facing the skin of the wearer). This of course would not then allow for detachment of the absorber pad to allow for inspection to determine if the garment was soiled while being worn.

In view of the foregoing, claim 1, and claims 2-7 dependent thereon, are believed to be patentable over Ono et al. for at least these reasons.

Claim 5 recites that a tearable portion for tearing the cover sheet is formed in the cover sheet by processing the cover sheet so that at least a portion of the first end portion of the absorbent portion will be exposed to an exterior of the article when the cover sheet is torn along the tearable portion. The Examiner equates the suspending flaps 20A and 20B to the cover sheet, and appears to be of the position that such flaps can be torn although nothing in Ono et al. has been shown to support such position.

Ono et al. merely describes Fig. 1 as a perspective view, partially broken away, of incontinence pants (column 2, line 19-21), and Fig. 3 as a plan view, partially broken away, of the incontinence pants (column 2, line 24-26). In Figs. 1 and 3, the suspending flaps 20A and 20B, are shown via solid lines. Thus, nothing in Ono et al. has been shown to indicate that such flaps have a processed tearable portion formed therein for tearing the flaps as set forth in claim 5.

Moreover, nothing in Ono et al. discloses processing the suspending flaps 20a and 20b so that at least a portion of the first end portion of the absorbent portion will be exposed to an exterior of the article when the cover sheet is torn along the tearable portion. Accordingly, claim 5 is believed to be allowable for these additional reasons.

New claim 8 sets forth a worn article comprising, *inter alia*, a fitting portion adapted to fit around a torso of a wearer and having an interior side for facing the torso of the wearer and an exterior side opposite the interior side, and an absorbent portion adapted for covering a crotch of the wearer and absorbing body fluid from the wearer, wherein, the absorbent portion includes a first end portion and a second end portion that are connected to the fitting portion on the exterior side of the fitting portion, and a cover sheet covering at least a portion of an exterior surface of the first end portion which is opposite to a surface of the end portion facing the skin surface of the wearer.

None of the references have been shown to disclose all of the features of claim 8. Accordingly, claim 8 is believed to be in condition for allowance.

**IV. CONCLUSION**

Accordingly, all claims 1-8 are believed to be allowable and the application is believed to be in condition for allowance. A prompt action to such end is earnestly solicited.

Should the Examiner feel that a telephone interview would be helpful to facilitate favorable prosecution of the above-identified application, the Examiner is invited to contact the undersigned at the telephone number provided below.

The absence in this reply of any comments on the other contentions set forth in the Office Action should not be construed to be an acquiescence therein. Rather, no comment is needed since the rejections should be withdrawn for at least the foregoing reasons.

Should a petition for an extension of time be necessary for the timely reply to the outstanding Office Action (or if such a petition has been made and an additional extension is necessary), petition is hereby made and the Commissioner is authorized to charge any fees (including additional claim fees) to Deposit Account No. 18-0988.

Respectfully submitted,

RENNER, OTTO, BOISSELLE & SKLAR, LLP

/Mark D. Saralino/

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Daniel R. Ling, Reg. No. 53,223  
Mark D. Saralino, Reg. No. 34,243

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The Keith Building  
1621 Euclid Avenue  
Nineteenth Floor  
Cleveland, Ohio 44115  
(216) 621-1113

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